REMARKS

Claims 1-16 are pending in the present application. Claims 1, 9, and 13 are amended by this Amendment. No claims are canceled or added by this Amendment.

Allowable Subject Matter

Initially, Applicant notes with appreciation the Examiner's indication that claims 6 and 10 contain allowable subject matter. Applicant respectfully submits that in light of the amendments above and arguments below, all the claims in the present application are patentable.

Claim Rejections under 35 U.S.C. § 103

Claims 1-5, 7-9, and 11-16 stand rejected under 35 U.S.C. § 103(a) as being obvious over Applicant's alleged Admitted Prior Art in the present application in view of Terry et al. (U.S. Pub. No. 2004/0027997, herein Terry). Applicant respectfully traverses the rejection.

Without admitting whether Figs. 3, 6 and the background at paragraph [0011] are prior art, Applicant submits that neither Figs. 3, 6 and the background at paragraph [0011] nor the cited art Terry disclose the features of Applicant's amended claim 1. In particular, Applicant's amended claim 1 recites *inter alia* the following:

adaptively adjusting at least one of:

a number of the buffers allocated to each of the endpoints based upon the buffer utilization, and

respective buffer capacities of the buffers allocated to each of the endpoints based upon the buffer utilization, respectively.

Terry discloses at paragraph [0026] "the RNC 52 sends data to the Node B 54, the amount of which may not exceed the capacity allocation. The Node B then adjusts its buffer

accordingly to receive and store the data (step 69)." Therefore, Terry merely discloses that "Node B adjusts its buffer." In particular, Terry discloses at paragraph [0026] only that "the amount of data stored in the buffer will change in accordance with the incoming data that is transmitted from the RNC 52 and the outgoing data that is transmitted to the UE82."

Therefore, Terry discloses only the amount of data actually stored in the buffer will change. However, nowhere does Terry disclose adjusting the number of buffers that are allocated to each endpoint or adjusting respective buffer capacities of the buffers. To the contrary, changing the amount of data stored in the buffer does not change an allocation of buffers to the endpoints. Further, while Terry discloses the amount of data stored in the buffer will change, Terry does not disclose that the capacity of the buffer is changed. Applicant respectfully submits changing the amount of data actually stored in the buffer is not equivalent to adjusting the capacity of the buffer. Therefore, Terry fails to disclose "adaptively adjusting at least one of: **a number of the buffers allocated to each of the endpoints** based upon the buffer utilization, and **respective buffer capacities of the buffers** allocated to each of the endpoints based upon the buffer utilization, respectively" as required by amended claim 1.

Accordingly, Applicant respectfully submits that claim 1 is patentable for at least the above reasons. Further, Applicant respectfully submits that claims 9 and 13 are amended to contain features similar to those discussed above in regards to claim 1 and are therefore patentable for at least the same reasons as well as on their own merits. Applicant also submits that claims 2-5, 7-8, 11-12, and 14-16, which are dependent on one of claims 1, 9, and 13, are patentable for at least the reasons discussed above in regards to claims 1, 9, and 13 as well as on their own merits.

In light of the above, Applicant respectfully requests that the rejections under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-16 in connection with the present application is earnestly solicited.
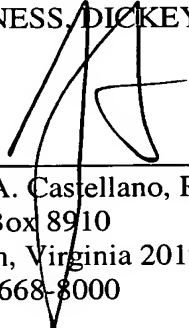
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John A. Castellano at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By _____

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